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PREPARATORY COMMITTEE FOR THE UNITED NATIONS
CONFERENCE ON ENVIRONMENT AND DEVELOPMENT
Third session
Geneva, 12 August-4 September 1991
Plenary
Item 2 (b) of the provisional agenda

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS

RECENT ACTIONS OF INTERGOVERNMENTAL AND OTHER BODIES OF RELEVANCE TO THE PREPARATORY PROCESS

Note by the Secretariat

Contribution of the Commission on Transnational Corporations to the preparatory process of the United Nations Conference on Environment and Development

1. At its seventeenth session, the Commission on Transnational Corporations adopted by consensus a resolution entitled "Recommendations of the Commission on Transnational Corporations at its seventeenth session and its contribution to the preparations for the United Nations Conference on Environment and Development", one section of which is of relevance to the United Nations Conference on Environment and Development. (See annex I to the present note.) The Commission recommended to the Economic and Social Council the adoption of the draft resolution.

GE.91-62071/1103H

2. In one of the relevant provisions of the draft resolution, the Secretary-General was requested to transmit to the Secretary-General of the Conference the report of the Secretary-General on the contribution of the Commission and the United Nations Centre on Transnational Corporations to the work of the Preparatory Committee for the United Nations Conference on Environment and Development (E/C.10/1991/3) and on transnational corporations and issues relating to the environment (E/C.10/1991/3/Add.1). Those reports will be made available to the Preparatory Committee for consideration at its third session.

3. In the same resolution, the Secretary-General was requested to transmit to the Secretary-General of the Conference the views expressed by members of the Commission at its seventeenth session during consideration of those reports. Those views are reproduced in annex II to the present note.

Annex I

SECTION II OF THE DRAFT RESOLUTION ENTITLED "RECOMMENDATIONS OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS AT ITS SEVENTEENTH SESSION AND ITS CONTRIBUTION TO THE PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT" RECOMMENDED TO THE ECONOMIC AND SOCIAL COUNCIL FOR ADOPTION BY THE COMMISSION AT ITS SEVENTEENTH SESSION

The Economic and Social Council,

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II

8. Takes note of the reports of the Secretary-General on transnational corporations and issues relating to the environment, a/ and requests the Secretary-General to transmit those reports to the Secretary-General of the United Nations Conference on Environment and Development, together with the views expressed by members of the Commission at its seventeenth session, with a view to making those reports available for consideration by the Preparatory Committee for the Conference at its third session;

9. Affirms that the following matters, inter alia, should be considered, consistent with General Assembly resolution 44/228, so as to encourage and mobilize large industrial enterprises, including transnational corporations, to cooperate in efforts to protect and enhance the environment in all countries:

(a) Their commitment to environmental protection in all countries;

(b) The positive role that they can play in the protection of the environment, inter alia, through the promotion of improved management and regulation of industrial processes, and investment in and generation and dissemination of environmentally benign technologies and processes;

(c) Their observance of government-agreed international environmental standards and industry-agreed guidelines;

(d) The positive effect of the increase in research and development in the area of environmentally sound technologies;

(e) Access to environmentally sound technologies and to information thereon and cooperation between transnational corporations and host country firms, in particular those in developing countries, in the use of environmentally sound technologies;

(f) Application of corporate worldwide environment and development policies, including ways of encouraging industry to apply standards of environmental responsibility to their foreign operations that are comparable to those applied in their home countries and that are consistent with the laws and regulations of host countries;

(g) Consistent and high environmental, health and safety standards for products, processes and services, as a contribution towards reaching equivalent levels of safety for all workers, communities and consumers;

(h) Environment and development accounting and reporting;

(i) Consideration of responsibilities and of such principles as the "polluter pays", preventive action at the source, a precautionary approach to environment and development issues, minimizing the risks to human life, health, property and the environment, as well as the question of redressing damage thereto;

(j) The incorporation of environmental concerns into their activities, which should be consistent with the economic policies and development needs of developing countries and should not create new barriers to access to and transfer of technology;

(k) Cooperation with industry in producing guidelines aimed at the development of environmental management policies and programmes, as well as the further development of criteria for environmental management;

(l) The role of Governments and of international cooperation in providing an appropriate framework for contributions by transnational corporations to sustainable development;

10. Requests the Executive Director of the United Nations Centre on Transnational Corporations, after extensive consultations with international business organizations and other relevant bodies, to prepare, within the mandate of the Centre, for consideration by the Commission on Transnational Corporations and by the Preparatory Committee for the United Nations Conference on Environment and Development, action-oriented and practicable recommendations on cooperation for protection and enhancement of the environment in all countries, taking into account the work undertaken by the Centre and by other bodies, and the views expressed by Governments during the seventeenth session of the Commission on Transnational Corporations and by the Preparatory Committee at its third session;

11. Decides that the eighteenth session of the Commission on Transnational Corporations should be held in January or February 1992 to permit, inter alia, consideration of the recommendations made by the Executive Director and to arrange for their transmittal to the Preparatory Committee for the United Nations Conference on Environment and Development at its forth session;

12. Decides further that, in the event that the eighteenth session of the Commission cannot be held in January or February 1992, the best way should be found of bringing to the attention of the Preparatory Committee at its fourth session the recommendations of the Executive Director and the views expressed thereon by the Commission, taking into account any proposals of the Secretary-General of the United Nations and not excluding the possibility of resuming the seventeenth session of the Commission for two days;

13. Requests that the findings of the Executive Director of the Centre with respect to the research project entitled "Transfer of environmentally sound technologies to developing countries on favourable terms", together with the prototype of financial statements that would enable corporations to report their income and profits on a sustainable basis, be transmitted to the Secretary-General of the United Nations Conference on Environment and Development for consideration by the Preparatory Committee at its third session;

14. Requests the President of the Economic and Social Council to transmit section II of the present resolution to the Chairman of the Preparatory Committee for the United Nations Conference on Environment and Development as the substantive contribution of the Commission to the work of the Preparatory Committee at its third session.

Note

a/ E/C.10/1991/3 and Add.1

Annex II

VIEWS EXPRESSED BY MEMBERS OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS AT ITS SEVENTEENTH SESSION DURING CONSIDERATION OF THE REPORTS OF THE SECRETARY-GENERAL ON ISSUES RELATING TO THE ENVIRONMENT*

40. The Commission considered item 4 of its agenda at its 5th, 7th, 8th, 10th and 13th to 16th meetings, on 12, 15 and 16 April and 7 and 15 May 1991. It had before it the reports of the Secretary-General on the contribution of the Commission and the United Nations Centre on Transnational Corporations to the work of the Preparatory Committee for the United Nations Conference on Environment and Development (E/C.10/1991/3) and on transnational corporations and issues relating to the environment (E/C.10/1991/3/Add.1).

ENVIRONMENT

41. In introducing the item, the Executive Director of the United Nations Centre on Transnational Corporations outlined the five main themes contained in the report of the Secretary-General (E/C.10/1991/3). He commended the Commission for the leading role it had been playing in defining the specific responsibilities of transnational cor, ations in the preparatory process for the United Nations Conference on Environment and Development and in adopting the Criteria for Sustainable Development Management, which had been cited widely. He invited the Commission to envision its role after the United Nations Conference on Environment and Development in 1992 and the early twenty-first century, including defining the future main issues of concern regarding transnational corporations and the environment. He expressed the hope that the Commission would continue its leadership role in formulating strategies for the participation of transnational corporations in the 1992 Conference and provide a positive impact on the preparatory process for the Conference.

42. Delegations praised the Executive Director on the analysis contained in the report prepared by the Secretariat. The report was considered to be useful as a basis for the Commission's contribution to the Conference. The report demonstrated the importance of transnational corporations in relation to environment and development and proposed concrete ideas for mobilizing and encouraging transnational corporations in that regard. Delegations encouraged the Centre to actively participate in the preparatory process for the Conference in cooperation with other United Nations bodies. Some delegations cautioned that the proposed work by the Centre should only be carried out in areas in which the Centre was competent in relation to other parts of the United Nations system.

43. Delegations stated that transnational corporations should participate actively in international economic cooperation with respect to environmental preservation as they had a major role in research, development and dissemination of environmentally sound technologies. They should assume

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* E/1991/31 - E/C.10/1991/17, paras. 40-54.

responsibility and cooperate in developing the right technologies for environmentally sound development. Several delegations noted that some technologies had caused environmental degradation and that transnational corporations had special responsibilities in that regard. Delegations appealed to transnational corporations to stop activities that degraded the environment and to provide technologies and resources to solve environmental problems in developing countries. One delegation expressed the view that transnational corporations should publish information on the cost of measures for environmental protection and conduct environmental audits of their activities in developing countries. Another delegation noted with interest a proposal to adopt a code of conduct for the environment and stated that environmental concerns were already included in the draft code of conduct negotiated a number of years ago.

44. A number of delegations noted that environmental costs should be borne by those responsible for creating them. The degree of commitment to correcting environmental problems must be relative to the degree to which the activity of each actor has negatively affected the ecological balance. Several delegations mentioned the many economic, social and environmental problems confronting most developing countries. Some stated that many proposals for resolving those problems were insufficient as developing countries needed resources to resolve the problems. Others stated that they were encouraged to hear that transnational corporations were developing international policies to solve environmental problems. Many delegations concluded that transnational corporations could contribute significantly to sustainable development and were well positioned to play a leading role, owing in part to their financial flexibility and global management policies. Some delegations stressed the importance of the role of Governments in encouraging transnational corporations to take adequate environmental protection measures.

45. Delegations suggested ways to incorporate the themes expressed in the interim report for inclusion in the contribution of the Commission to the prepartory process for the 1992 United Nations Conference on Environment and Development, particularly in the Earth Charter and Agenda 21. Several delegations suggested the development of principles that could apply, particularly in the absence of environmental protection regulations in developing countries. Others mentioned principles related to the responsibilities of transnational corporations when adherence to international environmental law was uneven. Some delegations suggested ways that the Criteria for Sustainable Development Management could contribute to the Conference process. Studies of transnational corporations and climate change, and disclosure of information on risk were also mentioned in that regard.

46. With regard to the theme of international environmental law, some delegations noted that transnational corporations should not only try to apply the minimum agreed norms but should also go beyond the minimum, as some already were doing in their international policies. Several delegations expressed the view that environmental standards required a mutual respect between transnational corporations and host countries.

47. Delegations expressed satisfaction with the progress of the work on the project examining various options and mechanisms to transfer environmentally sound technologies to developing countries. Questions were raised on the proposal on leasable emission permits and on coordination with the United Nations Industrial Development Organization (UNIDO) and other United Nations organizations. Other delegations expressed the need to further explore issues related to patents and intellectual property rights.

48. Several delegations expressed satisfaction with the progress of the survey of international environmental management policies and innovative practices of transnational corporations.

49. A number of delegations asked that the Centre continue to advise Governments of developing countries on the commercialization of natural resources and the negotiation of contracts and agreements with transnational corporations that had activities in areas that affect the environment.

50. Many delegations expressed concern that the proposed fund to be financed by transnational corporations to support environmental projects in developing countries would be compromised if financial contributions were inadequate. They expressed the hope that work in that area would continue as developing countries lacked financial resources to adddress environmental problems. Some delegations expressed concern that the proposed fund might duplicate environmental funds administered by other international organizations and suggested that transnational corporations might also contribute technology.

51. A few delegations noted the importance of environmental accounting, noting in particular the need to identify risks and liability issues.

52. Delegations noted that the Centre was coordinating with the secretariat of the Conference, in particular in relation to the work on the transfer of environmentally sound technologies. Several delegations stressed the need for overall coordination with other bodies of the United Nations system, such as the United Nations Environment Programme (UNEP), on specific questions.

53. In conclusion, the Executive Director described ways in which the Centre was coordinating with other bodies. One example was the Centre's close working relationship with the Organisation for Economic Cooperation and Development in developing proposals on the environmental responsibilities of transnational corporations. He discussed the results of the feasibility study on a voluntary fund for transnational corporations to assist developing countries in environmental protection and explained the difficulties with the idea. None the less, as the proposed fund would be made up of voluntary contributions from transnational companies, he considered that it did not overlap with any funding arrangements using donations from Governments. In noting the concern expressed with respect to technical assistance, he said the Centre was trying, within its limited resources, to respond to the increasing volume of requests for technical assistance work in environmental areas.

Action taken by the Commission

54. The Commission requested, inter alia:

(a) That a report be submitted to the Commission at its eighteenth session, containing the final version of the comprehensive and analytical study requested by the Economic and Social Council in resolution 1990/71, secton II, paragraph 1;

(b) That other projects referred to by the Council in resolution 1990/71, section II, paragraph 3 be completed;

(c) That a progress report on the ongoing projects described in the report of the Secretary-General (E/C.10/1991/3/Add.1) be submitted to the Commission at its eighteenth session;

(d) The Executive Director of the United Nations Centre on Transnational Corporations to transmit to the Secretary-General of the United Nations Conference on Environment and Development the action-oriented recommendations of the Commission regarding transnational corporations and sustainable development, along with the interim version of the comprehensive and analytical study, for consideration by the Preparatory Committee at its third session.